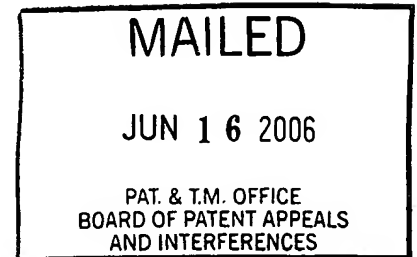


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARK BUDZIK

Application No. 10/685,750



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on May 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the file indicates that the appeal brief filed January 3, 2006 does not fully comply with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i)

through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

A review of the file reveals that the Summary of Claimed Subject Matter section of the Appeal Brief filed January 3, 2006 does not contain a concise explanation of independent claims 3, 5, and 7 on appeal. See MPEP § 1205. Correction is required.

Also, on April 21, 2006, appellant filed a Supplemental Reply Brief in response to the Supplemental Examiner's Answer mailed April 10, 2006. The Supplemental Reply Brief contains new evidence. This is prohibited by 37 CFR § 41.41(a)(2). Appropriate correction is required.

Accordingly, it is

ORDERED that this application be returned to the examiner to: 1) hold the appeal brief of January 3, 2005 defective; 2) request appellant to file a supplemental appeal

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brief (i.e., entry of a concise statement to independent claims 3, 5, and 7) in compliance with 37 CFR § 41.37(c)(1)(v); 3) for appellant to provide a proper Reply Brief; and 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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